IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.113 OF 2006

Vardhaman Stamping Pvt.Ltd. .. Petitioner

Versus

State of Maharashtra & Anr. .. Respondents

Mr.Prakash Naik i/b. Mahesh Menon for petitioner

Mr.J.P.Mishra and Mr.P.J.Pandit i/b. Mrs.Ranjana Pandit for respondent No.2

Mr.P.A.Pol, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 5th December 2006.

P.C.

. This criminal application is directed

against the order dated 28th November 2005 passed by the learned Magistrate directing investigation under section 156(3) of Cr.P.C.

2. Petitioners are the original accused whereas second respondent is original complainant. In terms of the agreement which is referred to in para 3 of this application, the alleged dispute has arisen and that is how, the petitioners are accused of criminal breach of trust and mis-appropriation.

3. On a perusal of this petition, I prima facie expressed an opinion that the disputes essentially are contractual and it would be desirable if the petitioner and respondents explore the possibility of resolving the same, through arbitration.

4. After taking instructions, both sides inform me that they are agreeable to refer the

disputes forming subject matter of the present criminal revision application to Arbitration of a Retired Judge of this Court. Accordingly, Hon'ble Mr. Justice D.R.Dhanuka (Retd.) is appointed as an Arbitrator for deciding disputes arising between parties and forming subject matter of this Revision application.

5. Learned Advocate for second respondent states that there are some other disputes pending between parties in civil courts and on account of some transactions, payments have been made by cheques. These cheques allegedly being dishonoured, complaints have been preferred by the petitioner/applicant herein and the same are pending. According to him, those disputes are also contractual in nature and can be referred to the arbitration. They are more or less connected with the subject Revision Application.

6. Needless to state that it would be open

for second respondents to take such steps as are permissible in law for referring these disputes to the learned Arbitrator and it is for the learned Arbitrator to take such decision as is permissible in law.

7. However, as far as this criminal revision application is concerned, order dated 29th November 2005 is set aside. The complaint No.CC/236/PW/06 pending in 47th Metropolitan Magistrate's Court, Mumbai is also quashed. Criminal Revision Application is allowed in these terms. Learned Arbitrator is requested to make his Award in terms of the Arbitration and Conciliation Act, 1996 as expeditiously as possible.

(S.C.Dharmadhikari, J)